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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT PAPER NUMBER

3728

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5A

Office Action Summary

Application No.

10/609,138

Applicant(s)

SCHAUER, RONALD VERN

Examiner

Shian T. Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/03</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

1. Claims 9-11 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 9 and 16, the phrase “according to a color selected from a color code table that having a list of colors and associated process chamber kits” renders the claims indefinite. The color code table does not appear to be a part of the transportation package but a color code table that is used by the manufacturer during the processing of the container. Therefore, it is assumed that the color coded table is not part of the package and applicant should amend the claim language accordingly.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the color code table that has a list of colors and associated process chamber kits must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

Art Unit: 3728

drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,2,3,6,8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Barth et al. (US 3,487,921). A transportation package that has a plurality of differently shaped chamber components, the package comprising (a) a first tray 12 having a first ledge having a first rim; and a plurality of first troughs (34,32,36,38) extending outwardly from the first ledge. (b) a second tray 14 that is detachable from the first tray, the second tray having a second ledge having a second rim that couples with the first rim of the first ledge to form a seal therebetween; and a plurality of second troughs (34,32,36,38) extending outwardly from the second ledge. A plurality of conformal cells having different internal surface profiles are formed by facing pairs of first and second troughs, the internal surface profile of each conformal cell matching an external surface profile of a chamber

Art Unit: 3728

component so that movement of the chamber component in its conformal cell is minimized during transportation. At least a portion of the first or second tray is substantially transparent (column 3, lines 39-40) so that a state of each chamber component may be observed through the substantially transparent portion. The facing first and second troughs have substantially the same internal surface profile and are juxtaposed in mirror relationship to each other.

With respect to claim 3, the sidewall of the tray having a height greater than the depth of the cells.

With respect to claim 6, the area between chamber 34 and 36 is a trough wall that is shaped to exert a force to hold the component in a contact point.

With respect to claim 8, the latch and tab 40 are formed on the package.

It appears that the exterior package is made of rigid material. In the event that it is not made out of rigid material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the package out of rigid material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barth et al. in view of Everson (US 5,454,478). Although Barth et al. does not disclose handle portions, Everson teaches that the use of handles 26,132 in the box and the lid, respectively, are well known in the art. Therefore, it would have been obvious in view of Everson to provide handle portions to facilitate handling of the box and the lid.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 4, further in view of Keip et al. (US 5,816,425). Barth et al. does not show removable panels that can be coupled together. Keip, et al., for example, shows a shipping container with interlocking side panels. The removable panels allow reuse of the package. Therefore, it would have been obvious to make the side panels of Barth et al. removable to facilitate removal of the package and to allow reuse of the package.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barth et al. in view of Hamilton et al. (US 4,674,650). Barth et al. does not disclose a gasket seal with a groove. But Hamilton et al. teaches, for example, a gasket 50 within a groove to seal the container. It would have been obvious to one of ordinary skill in the art to seal the container by groove and gasket to prevent tarnishing of the article.

9. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barth et al. in view Official Notice. Although Barth et al. does not disclose whether the tray is colored, Official Notice is taken of the conventional coloring of a container to distinguish the container from other similar containers or for aesthetic purpose. Hence, it would have been obvious to provide color on the container from a required list or color chart.

10. Claim 12-13,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barth et al. in view of Hamilton et al. (US 4,674,650). Barth et al. does not disclose a gasket seal with a groove. But Hamilton et al. teaches, for example, a gasket 50 within a groove to seal the container. It would have been obvious to one of ordinary skill in the art to seal the container by groove and gasket to prevent tarnishing of the article.

It appears that the exterior package is made of rigid material. In the event that it is not made out of rigid material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the package out of rigid material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 13, further in view of Everson (US 5,454,478). Although Barth et al. does not disclose handle portions, Everson teaches that the use of handles 26,132 in the box and the lid, respectively, are well known in the art. Therefore, it would have been obvious in view of Everson to provide handle portions to facilitate handling of the box and the lid.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 12, further in view of Official Notice. Although Barth et al. does not disclose whether the tray is colored, Official Notice is taken of the conventional coloring of a container to distinguish the container from other similar containers or for aesthetic

Art Unit: 3728

purpose. Hence, it would have been obvious to provide color on the container from a required list or color chart.

Conclusion

13. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.


Application/Control Number: 10/609,138

Page 8

Art Unit: 3728

STL

May 17, 2005


Primary Examiner
Shian Luong
Art Unit 3728